

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

UNITED STATES OF AMERICA :  
 :  
 vs. :  
 :  
 DYLANN STORM ROOF : 2:15 - CR - 472

Bar Meeting in the above matter held on Thursday,  
October 1, 2015, commencing at 10:09 a.m., before the  
Hon. Richard M. Gergel, in the United States Courthouse,  
Courtroom VI, 85 Broad St., Charleston, South Carolina,  
29401.

APPEARED ON BEHALF OF THE UNITED STATES:

JAY N. RICHARDSON, ESQ., 1441 Main St., Columbia, SC.

NATHAN WILLIAMS, ESQ., P.O. Box 978, Charleston, SC.

APPEARED ON BEHALF OF THE DEFENSE:

DAVID I. BRUCK, ESQ., Washington & Lee School of Law,  
Lexington, VA.

MICHAEL P. O'CONNELL, ESQ., 109 Wappoo Creek Dr.,  
Charleston, SC.

REPORTED BY DEBRA L. POTOCKI, RMR, RDR, CRR  
Official Court Reporter for the U.S. District Court  
P.O. Box 835  
Charleston, SC 29402  
843/723-2208

1 THE COURT: Mr. Richardson, call your next case,  
2 please, sir.

3 MR. RICHARDSON: Thank you, Your Honor. United  
4 States versus Dylann Storm Roof, Criminal No. 2:15-472. We're  
5 here for the bar meeting, Your Honor.

6 THE COURT: Very good. Good morning, Mr. Bruck, good  
7 to have you here before us.

8 MR. BRUCK: Morning, Your Honor.

9 MR. O'CONNELL: Good morning, Your Honor.

10 THE COURT: Good to have all defense counsel here.

11 I have filings, Dockets No. 60 and 61, waiving appearance  
12 at the bar meeting, Mr. Bruck.

13 MR. BRUCK: Yes.

14 THE COURT: And waiving your right to a speedy trial,  
15 is that correct?

16 MR. BRUCK: Yes.

17 THE COURT: We'll address the specific issues in just  
18 a minute about any continuance. But I want to confirm those  
19 are on the record, and that explains the defendant's absence,  
20 correct?

21 MR. BRUCK: Yes.

22 THE COURT: Very good. Let me first address some  
23 matters to the Government, and then I'll address to you,  
24 Mr. Bruck.

25 Mr. Richardson, give me a status report; where are we?

1 MR. RICHARDSON: Your Honor, in this -- you know, the  
2 current posture is we are continuing to work on the case, the  
3 investigation is ongoing to some degree. We've provided  
4 extensive discovery to defense counsel July the 31st. We  
5 provided more than 15,000 pages of discovery, along with  
6 electronic audio/video type evidence. On September the 16th  
7 we provided an additional round of discovery, which included  
8 more electronic evidence, as well as thousands more pages of  
9 documents. That process is ongoing, although --

10 THE COURT: I was about to say, so we can anticipate  
11 there's more to come?

12 MR. RICHARDSON: As in every case, Your Honor. I can  
13 tell you the investigation is ongoing, and by nature, that  
14 means there's discovery continuing to be created. I will also  
15 say there is some material that has not yet been produced,  
16 particularly of the electronic variety, that is just going  
17 through that processing. We would anticipate that that is not  
18 long off from being produced, but it has not yet been  
19 produced. It's being worked on.

20 THE COURT: What kind of timeline are we talking  
21 about?

22 MR. RICHARDSON: I think with respect to the  
23 information that previously existed, again, not talking about  
24 information that's --

25 THE COURT: Can't produce what you don't yet have.

1 MR. RICHARDSON: I would anticipate that we'd be able  
2 to do that in the next month. That's a little hard for me to  
3 say, because some of it is a technical challenge, given the  
4 volume of data and how we convey that, whether we're going to  
5 have hard drives that are large enough to do that, whether we  
6 need to make some of those, perhaps less critical pieces of  
7 evidence available for viewing. That's a question that we're  
8 trying to resolve. We're trying to provide it all, because  
9 obviously that would be easier for defense counsel. There may  
10 be some instances where that is difficult. But I would  
11 anticipate that that would be something we'd be able to do, at  
12 least substantially within the next month.

13 THE COURT: Well, obviously defense counsel have a  
14 lot on them, they have a lot of work to do, and the sooner you  
15 get them the information, the sooner we'll be ready for trial.  
16 Correct? I mean --

17 MR. RICHARDSON: That's absolutely right. And I can  
18 tell you that the core of the discovery, I mean, we're really  
19 now talking about the things that are several steps removed,  
20 and in many instances, I would argue are irrelevant. We're  
21 going to provide them, don't get me wrong, but the core  
22 information that's relevant to the case, has been provided.

23 There are additional matters. But I do want the Court to  
24 be clear that we have provided the core of the case, the vast  
25 majority.

1 THE COURT: And you are diligently working towards  
2 completing that.

3 MR. RICHARDSON: Absolutely. We have a team of  
4 people that are working on completing that. We've done, I  
5 think, the vast majority of that. As in every case, there are  
6 clean-up matters and then the technical issues with some of  
7 the electronic information. But I would anticipate that  
8 that's going to be, you know, wrapped up relatively soon. And  
9 then, you know, we'll obviously have a role in discovery that  
10 continues on.

11 THE COURT: Well, the Government's given notice of  
12 the potential for this being a capital case, but has not yet  
13 made a decision. I know there's a process within the  
14 Department of Justice on that. Where are we on that?

15 MR. RICHARDSON: Your Honor, with respect to the  
16 notice, I don't think the Government's provided any notice  
17 particularly, but the grand jury returned an indictment --

18 THE COURT: That's what I mean, the grand jury  
19 indictment.

20 MR. RICHARDSON: That process is ongoing. Without  
21 going into the details of that deliberative process, what I  
22 can tell you is we are working diligently on that. It is a  
23 process that does take some time, it's a thoughtful process  
24 that requires input from an array of sources, as well as  
25 consideration by a number of people. And we are diligently

1 pursuing that as well. I don't have an estimate for Your  
2 Honor as to when that would be completed, or when that process  
3 would be at a point where I could tell the Court when it is  
4 completed. As the Court is aware, that decision is ultimately  
5 made by the Attorney General, and her schedule and timing and  
6 information she wants, obviously, will dictate that at the end  
7 of the day.

8 THE COURT: There are a lot of reasons, obviously, we  
9 want it done as quickly as can reasonably be accomplished.  
10 I'm in the midst of preparing to approve a tentative budget  
11 for this matter. And to the extent it's not a capital case,  
12 that's a highly relevant matter, and it is not inexpensive.  
13 And I never like wasted effort. And to the extent -- This is  
14 one of those things where time matters. And Mr. Bruck and Mr.  
15 O'Connell, they're very experienced at this, and they're going  
16 forward with the reasonable assumption this is a capital case.

17 Mr. Bruck, you've got to do that, right? You don't have a  
18 choice.

19 MR. BRUCK: Until we hear otherwise.

20 THE COURT: Until you hear otherwise, you don't have  
21 a choice, y'all just got to do what you got to do. And that's  
22 my concern, is it's y'all's decision to make, but the longer  
23 it lingers, you know, it leaves a lot in doubt in this case.  
24 So if you would just communicate to those up the line who will  
25 make it, and I understand, Mr. Richardson, you're not the one

1 to make it and you don't set the schedule for the Attorney  
2 General. But if you would communicate the Court's urging that  
3 the process proceed as -- you know, I want it to be  
4 deliberative and all that, I'm not trying to rush a decision,  
5 but I want it to be done as soon as can reasonably be  
6 accomplished. I want it to be a priority in the Department,  
7 because there are a lot of wheels that move based upon that  
8 decision.

9 MR. RICHARDSON: I will certainly convey that, Your  
10 Honor. I can tell Your Honor, in my dealings with the  
11 Department of Justice on this, all the way to the highest  
12 level, that this is an absolute priority for the Department,  
13 and it is something that is not sitting on the back burner by  
14 any stretch of the imagination.

15 THE COURT: We just had a case I'm getting ready to  
16 try this next trial term, which was a potential capital case,  
17 and we had to go through the process, and ultimately a  
18 decision was made not to make it a capital case. And it did  
19 affect, you know, my defense counsel's efforts and strategies.  
20 It was a difficult case no matter what, and we're proceeding  
21 with it, but it took awhile. I mean, I'm aware in a case that  
22 perhaps wasn't as high a profile as this one, that the  
23 Department takes its responsibilities very seriously, as it  
24 should.

25 So just encourage them to move it along. And I understand

1 that a lot of, you know, that the Court -- if you'll just  
2 indicate the Court is concerned about this.

3 MR. RICHARDSON: I will absolutely do that, Your  
4 Honor.

5 THE COURT: Any matter you think you need to bring to  
6 my attention now, that you would like me -- you think I might  
7 need to address?

8 MR. RICHARDSON: Your Honor, the only issue the  
9 Government has for today is the context of the continuance of  
10 the case and the need, as the Court is well aware, to create a  
11 fulsome record under 3161(h)(7), of the reasons why the ends  
12 of justice justify a continuance in this case.

13 We do want to address that, just to make sure that that  
14 record is clear. But beyond that, that's the only issue that  
15 the Government has.

16 THE COURT: Well, Mr. Richardson, because you're in  
17 Columbia, you don't get the daily -- you know, every two-month  
18 roster meeting with me, and I wear everybody out by making  
19 full findings under the Speedy Trial Act, to the extent that  
20 my court reporters sometimes roll their eyes as I begin  
21 explaining on each one which parts of the Speedy Trial Act  
22 basis of my decision. So don't worry about that, we will do  
23 that. And if there's more needs to be done, I'm sure you'll  
24 raise it with me.

25 Anything further?



1 MR. RICHARDSON: Nothing, Your Honor.

2 THE COURT: Mr. Bruck? Obviously one purpose here is  
3 issue of the Speedy Trial Act, and we'll get to that in a  
4 moment. Are there matters that need my attention, or that you  
5 would like me to address today, or any matters you think I  
6 should know about that you think I perhaps do not know?

7 MR. BRUCK: No matters that require the Court's help  
8 or action for today. I wanted to only add one comment to  
9 Mr. Richardson's description of the discovery process. The  
10 Government does appear to us to have been proceeding as  
11 expeditiously as possible. There's been an enormous amount of  
12 discovery in this case.

13 I would like to make it clear on that, although the  
14 initial discovery disclosures on July 31st were very very  
15 voluminous, the real bulk, the substantive discovery, FBI  
16 302s, the things that we really needed in the case, were all  
17 contained in the second disclosure on September 16, which is  
18 to say we've only had two weeks with the real bulk of the  
19 discovery today.

20 And that's in no sense a criticism of the Government.  
21 They are furnishing the material to us absolutely as soon as  
22 they get it. This case is being handled in Washington, we  
23 understand that. I just say that to make clear to the Court  
24 that the real discovery was not two months ago.

25 THE COURT: Right. And no matter where this case

1 goes, what you're now getting, you have to -- you and  
2 Mr. O'Connell have to get into, you have to dig into, you have  
3 to respond to it, et cetera, right? No matter where this case  
4 goes.

5 MR. BRUCK: Exactly.

6 THE COURT: Okay. Talk to me about -- obviously your  
7 client has a right to have this case called for trial. I take  
8 it you don't wish me to do that.

9 MR. BRUCK: No. We understand and the client accepts  
10 that it's going to take us enough time to get our arms around  
11 the case and understand specific details of the allegations  
12 and evidence in the case. This is not a case that could  
13 possibly be tried within the Speedy Trial Act limits, in our  
14 view.

15 THE COURT: I rarely will find one, Mr. Bruck. I had  
16 a surprising development in one case where the lawyer stood up  
17 and announced he was ready for trial, and I said, you're on  
18 for next week. And I saw his associate sitting next to him  
19 pulling on his jacket; and sure enough, within a day I had a  
20 call for a continuance. So I wasn't expecting that.

21 I don't want to drag you over here needlessly for -- I  
22 have a roster meeting call every two months. And to the  
23 extent that it merely involves what I think is going to take  
24 some time, I don't want to waste effort. So tell me what type  
25 of continuance the defense would like, and tell me the basis

1 of why you would need that continuance.

2 MR. BRUCK: Well, Mr. Richardson and I discussed this  
3 earlier, and we would be satisfied at this point simply to  
4 carry the case over for the next term, and address where we  
5 are then. We may know --

6 THE COURT: That's every two months. And I don't  
7 have any problem doing that, and I -- you know, what -- and I  
8 don't mind doing just periodically doing these same kind of  
9 hearings.

10 Let me just say, I think both of you know this, that we  
11 don't need -- to the extent something arises that needs to be  
12 addressed, we do not need to wait for the next roster meeting  
13 to address it. If you'll let me know about that, I'm pretty  
14 prompt on responding to things. But if it's helpful to have  
15 this sort of set up every two months, I'm game, I mean, I'm  
16 fine with that.

17 MR. BRUCK: I don't know we need to commit to every  
18 two months. I think our sense is that in two months we will  
19 have a better sense of the timing of this case going forward.  
20 So if we were to hold the case open this one time, two months  
21 from now we might be able to make a more informed assessment.

22 THE COURT: So we're talking it's now October 1st,  
23 early December.

24 MR. BRUCK: Early December, correct.

25 THE COURT: Mr. Richardson, does that make sense to

1 you?

2 MR. RICHARDSON: It does, Your Honor. Mr. Bruck is  
3 exactly right. I think one term, whether -- I'm not sure,  
4 maybe your terms are -- I can't remember exactly your --

5 THE COURT: Every two months. I have a rolling trial  
6 term, I never quit.

7 MR. RICHARDSON: No, I totally understand that, but I  
8 didn't know whether your next term was a November-December  
9 term or an October-November term.

10 THE COURT: Next one is a November-December term, but  
11 we have it in early December for January.

12 MR. RICHARDSON: I think that would be an appropriate  
13 time to have that. I do think Mr. Bruck is correct in the  
14 context I would not anticipate long term that we would need to  
15 do that every two months. But I'm hopeful that there's some  
16 benefit to having at least this next one and maybe there's one  
17 more after that, where we have a little bit of time, we're  
18 able to update the Court on any timing questions that you  
19 might have, and address any small issues that come up.

20 THE COURT: I have, on some of my complex cases, we  
21 have set up regular status conferences in civil cases, not  
22 criminal. Criminal kind of take care of themselves with the  
23 roster meetings. And in some times we've, you know, not had  
24 them, and then other times we've done it earlier, because  
25 issues have arisen. So even if we end up continuing beyond a

1 certain term, we may want to set up periodic times in front of  
2 the Court, which we can cancel if there are not issues.

3 I just think that what I don't want to have here is have  
4 issues which are slowing one of the parties down, not  
5 resolved, and that kind of creates a logjam in the case. I  
6 don't want to be part of the problem, I want to be part of the  
7 solution of getting these things ready.

8 So I am not -- I am, as they say, you have to trust  
9 anybody from government who says this, I'm just a phone call  
10 away, I'm here to help you, but I am. I'm here to help y'all  
11 resolve things you can't resolve among yourselves. Obviously  
12 this is very experienced counsel on both sides, y'all have  
13 been around the track a few times, so a lot of this stuff  
14 y'all will just work out among yourselves. But if you can't  
15 work it out, I am available on fairly short notice. Okay?

16 So, Mr. Bruck, you are asking for a continuance for the  
17 next term, which is a January 2016 term, is that correct?

18 MR. BRUCK: Yes, Your Honor.

19 THE COURT: And I take it that as a result of having  
20 just received this case, that one of the factors that you  
21 would like me to consider is to provide you adequate time to  
22 prepare for trial, is that correct?

23 MR. BRUCK: Yes, sir.

24 THE COURT: And you would also -- you've also  
25 identified this because of the volume of discovery, that this

1 is -- and other issues in the case, that it is a complex  
2 matter, is that right?

3 MR. BRUCK: Absolutely, yes, sir.

4 THE COURT: Are there any other factors you would  
5 like me to consider in terms of addressing the Speedy Trial  
6 Act matter?

7 MR. BRUCK: I think that those two cover it.

8 Excuse me.

9 THE COURT: Got your real lawyer there, Mr. Bruck.  
10 (Brief interruption in proceedings.)

11 MR. BRUCK: I think under the statute, Mr. O'Connell  
12 points out, there is also a concurrent state prosecution.  
13 What effect that has is debatable.

14 THE COURT: We're going to talk about that in just a  
15 minute, by the way.

16 First of all, Mr. Richardson, any other matters you would  
17 like the Court to address, other factors that might support  
18 the defendant's request for a continuance?

19 MR. RICHARDSON: No, Your Honor, I think you've  
20 covered it. The one thing I feel like I at least should  
21 mention, the Court may want to consider in weighing that, is  
22 the Crime Victim Rights Act. The victims have a right to not  
23 have proceedings with unreasonable delay. Certainly we don't  
24 think that applies here, but I at least note that for the  
25 Court, so the Court is aware, in weighing that, that that is

1 something the Court may consider as part of that, in weighing  
2 that determination.

3 THE COURT: Are you aware of any victims who would  
4 oppose a continuance to January?

5 MR. RICHARDSON: None, Your Honor. I mention that  
6 more for the record than anything else.

7 THE COURT: Well, I obviously do -- I would obviously  
8 consider that. It is a factor, particularly after awhile,  
9 I've had victims in cases come and attend the roster meeting,  
10 and the lawyers don't seem to appreciate it, but I think it's  
11 just fine for them to come, myself.

12 MR. RICHARDSON: I will tell the Court, we've  
13 encouraged them to be here today. One representative of one  
14 of the victims is here with us today, and so they have been  
15 notified, we've encouraged them and continued to encourage  
16 them to show up to any and all hearings.

17 THE COURT: Well, they have a right to have their  
18 voices heard in this. And the Court will certainly provide  
19 that. So I wish you would continue to give them that notice  
20 at each of these meetings. And to the extent that even if you  
21 think a continuance is proper, but there's some disagreement,  
22 I'm glad to hear from the family or representatives of the  
23 family about that. I mean, you'll let them know that.

24 MR. RICHARDSON: We will do so, and I can assure the  
25 Court that were we aware of any such thing, we would convey

1 that to the Court on their behalf.

2 THE COURT: I do find on the matters that have been  
3 presented to me and the record presented to me, that the ends  
4 of justice are served by a continuance, and outweigh the best  
5 interests of the public and the defendant in a speedy trial.  
6 And specifically, the recent production of the voluminous  
7 discovery, some of the most material discovery, the complexity  
8 of the case and the need of defense counsel to be adequately  
9 prepared, all support the finding of the Court. And the Court  
10 thus grants the defendant's motion for a continuance into the  
11 January 2016 term.

12 Now, let's talk about what's going on with the State,  
13 because obviously this is not a common feature of having  
14 parallel proceedings. And as they will say, I know when I  
15 read in the newspapers that there is a schedule of a July 2016  
16 State trial? Anybody know anything about that?

17 MR. RICHARDSON: There is a scheduled July 2016 trial  
18 date.

19 THE COURT: You know as much as I do. You probably  
20 know more than I do.

21 MR. RICHARDSON: Your Honor, I think the information,  
22 I think your information is good on that score. I think  
23 that's about all the information.

24 We have been working closely with the Solicitor's office  
25 on a variety of different levels, and have continued to do so.



1 But I don't think that I have any update on that beyond -- I  
2 think there is a July 2016 trial schedule.

3 THE COURT: And is there any discussion going on  
4 about sort of who goes first?

5 MR. RICHARDSON: I would say there's some discussion,  
6 yes, Your Honor.

7 THE COURT: And I take it from that response, there's  
8 no resolution of that discussion.

9 MR. RICHARDSON: I don't have any updates, Your  
10 Honor.

11 THE COURT: Okay. Mr. Bruck, do you have any  
12 thoughts or anything to contribute to this?

13 MR. BRUCK: Well, I would point out that the State,  
14 as the Court is aware, has announced its intention to seek the  
15 death penalty. For that reason, I think any initial -- that  
16 always extends the life of the case a lot.

17 The July trial setting, I think, is the initial one, and  
18 we all know that those --

19 THE COURT: In your experience, do those things get  
20 changed?

21 MR. BRUCK: In my experience, those things get  
22 changed.

23 THE COURT: You're not in this case.

24 MR. BRUCK: I'm not speaking from inside knowledge,  
25 I'm just saying what we all know.

1           On the federal side, the only reason this case is complex,  
2           and the only reason we are moving for a continuance, is the  
3           possibility of the death penalty. But for that, it would not  
4           be complex, and the case would be over almost immediately, for  
5           reasons which we announced at the --

6           THE COURT: I spoke to my magistrate about that.

7           MR. BRUCK: Yes. So there are unknowns on both  
8           sides, I guess, is what I'm saying.

9           THE COURT: Welcome to life, right?

10          MR. BRUCK: Amen.

11          THE COURT: Okay. Folks, I do think that I'm going  
12          to be asking at every meeting we have, issues, if there's a  
13          desire for continuance, why we need that, and about this  
14          parallel proceeding. Again, I just don't like to waste  
15          effort, okay? And I'm going to -- this comes as a surprise to  
16          no one. That to the extent there is -- the Government seeks  
17          death, I'm going to provide every resource reasonably  
18          necessary to provide an adequate defense. You know, reaching  
19          out of state to bring Mr. Bruck here, who I've known for 30  
20          years, I have immense respect for him and Mr. O'Connell. I  
21          have also great respect for Mr. Richardson. We're going to  
22          make sure the defendant has his rights protected. And it's an  
23          expensive enterprise to do it. And to the extent we're not on  
24          that track, we need to know it sooner, not later, right? I  
25          mean, that's just what we need to know.

1 And to the extent there is a resolution that one of the  
2 state or federal agencies is going to go first, I'd like to  
3 know that soon. Okay? That's a relevant feature in this.

4 And so, Mr. Richardson, you all come armed at each  
5 meeting, if you've had discussions either or both of those,  
6 that you're going to share those with the Court in a way that  
7 you're able to do that.

8 MR. RICHARDSON: I'll certainly do so, Your Honor.

9 THE COURT: Mr. Bruck, anything that needs my  
10 attention?

11 MR. BRUCK: No, Your Honor.

12 THE COURT: Very good. Okay. Well, I've got a  
13 feeling we'll see each other again soon.

14 So with that, the hearing is adjourned. Thank you very  
15 much.

16

17 (Court adjourned at 10:28 a.m.)

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATION

I, Debra L. Potocki, RMR, RDR, CRR, Official Court Reporter for the United States District Court for the District of South Carolina, hereby certify that the foregoing is a true and correct transcript of the stenographically recorded above proceedings.

S/Debra L. Potocki

---

Debra L. Potocki, RMR, RDR, CRR